

## 21 C.J.S. Courts § 89

Corpus Juris Secundum | May 2023 Update

### Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

### II. Jurisdiction of Courts

#### H. Loss or Divestiture of Jurisdiction

## § 89. Subsequent error, irregularity, or impropriety as divesting acquired jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Courts](#)  30

### **Jurisdiction, once properly acquired, is not divested by irregularities or errors of the court or parties.**

A court is not generally divested of jurisdiction, properly acquired, by the court's error in the resolution of a matter on the merits,<sup>1</sup> whether of fact, or law, or both,<sup>2</sup> or other irregularity,<sup>3</sup> error, or impropriety of action or determination,<sup>4</sup> even as to an error in adhering to a state rule<sup>5</sup> or statute,<sup>6</sup> particularly one that is merely directory, and not mandatory,<sup>7</sup> and particularly when the court's jurisdiction is derived from the state constitution.<sup>8</sup> A venue error does not divest the court of subject matter jurisdiction.<sup>9</sup>

Subject matter jurisdiction, properly acquired, is not generally destroyed by the failure to follow a procedural requirement,<sup>10</sup> or by procedural irregularities such as a defect in process in relation to a party,<sup>11</sup> at least in the absence of some harm or prejudice shown to affect a party,<sup>12</sup> but exceptions may apply, as when a procedural defect interferes with the accomplishment of statutory purposes.<sup>13</sup> Otherwise, a party's failure to comply with a procedural requirement may justify the court's dismissal of the action but does not divest the court of subject matter jurisdiction.<sup>14</sup>

Personal jurisdiction, once acquired, is not divested by the court's error of law or procedure.<sup>15</sup>

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

### Footnotes

- 1 Tex.—*Riggins v. Hill*, 461 S.W.3d 577 (Tex. App. Houston 14th Dist. 2015), reh'g overruled, (Feb. 24, 2015) and review denied, (Aug. 14, 2015).
- 2 Ill.—*Dovalina v. Conley*, 2013 IL App (1st) 103127, 371 Ill. Dec. 405, 990 N.E.2d 305 (App. Ct. 1st Dist. 2013).  
N.H.—*State v. Demesmin*, 159 N.H. 595, 992 A.2d 569 (2010).
- 3 Ill.—*Dovalina v. Conley*, 2013 IL App (1st) 103127, 371 Ill. Dec. 405, 990 N.E.2d 305 (App. Ct. 1st Dist. 2013).  
N.H.—*State v. Demesmin*, 159 N.H. 595, 992 A.2d 569 (2010).  
Wyo.—*CSC Group Holdings, LLC v. Automation & Electronics, Inc.*, 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 4 Ill.—*McCormick v. Robertson*, 2015 IL 118230, 390 Ill. Dec. 142, 28 N.E.3d 795 (Ill. 2015).
- 5 Ky.—*Sitar v. Com.*, 407 S.W.3d 538 (Ky. 2013).
- 6 Ill.—*McCormick v. Robertson*, 2015 IL 118230, 390 Ill. Dec. 142, 28 N.E.3d 795 (Ill. 2015).  
Ky.—*Sitar v. Com.*, 407 S.W.3d 538 (Ky. 2013).  
Va.—*Boatright v. Wise County Dept. of Social Services*, 64 Va. App. 71, 764 S.E.2d 724 (2014).
- 7 Va.—*Boatright v. Wise County Dept. of Social Services*, 64 Va. App. 71, 764 S.E.2d 724 (2014).  
**Effect of mandatory statute varies**  
Wis.—*Village of Elm Grove v. Brefka*, 2013 WI 54, 348 Wis. 2d 282, 832 N.W.2d 121 (2013), order amended on other grounds, 2013 WI 86, 350 Wis. 2d 724, 838 N.W.2d 87 (2013).
- 8 Ill.—*McCormick v. Robertson*, 2015 IL 118230, 390 Ill. Dec. 142, 28 N.E.3d 795 (Ill. 2015).
- 9 Ind.—*In re Adoption of L.T.*, 9 N.E.3d 172 (Ind. Ct. App. 2014).
- 10 Mont.—*Watson v. West*, 2011 MT 57, 360 Mont. 9, 250 P.3d 845 (2011).  
Va.—*Boatright v. Wise County Dept. of Social Services*, 64 Va. App. 71, 764 S.E.2d 724 (2014).
- 11 Wyo.—*CSC Group Holdings, LLC v. Automation & Electronics, Inc.*, 2016 WY 26, 368 P.3d 302 (Wyo. 2016).
- 12 Mass.—*Depianti v. Jan-Pro Franchising Intern., Inc.*, 465 Mass. 607, 990 N.E.2d 1054 (2013).  
Va.—*Boatright v. Wise County Dept. of Social Services*, 64 Va. App. 71, 764 S.E.2d 724 (2014).
- 13 Mass.—*Depianti v. Jan-Pro Franchising Intern., Inc.*, 465 Mass. 607, 990 N.E.2d 1054 (2013).  
**Dictates of central statutory scheme**  
Wis.—*Village of Elm Grove v. Brefka*, 2013 WI 54, 348 Wis. 2d 282, 832 N.W.2d 121 (2013), order amended on other grounds, 2013 WI 86, 350 Wis. 2d 724, 838 N.W.2d 87 (2013).
- 14 Colo.—*People v. Martinez*, 2015 COA 33, 350 P.3d 986 (Colo. App. 2015).
- 15 Va.—*Zedan v. Westheim*, 60 Va. App. 556, 729 S.E.2d 785 (2012).

---

End of Document

© 2023 Thomson Reuters. No claim to original U.S. Government Works.